

Date \_\_\_\_\_

The Examiner states for the first time in his Answer in the paragraph bridging pages 4 and 5, that the catalog pages from a Bickle, Räder + Rollen catalog, which show commercially available guide rollers that can be used in the invention and pages from a Ketten Wulf catalog, which show commercially available carrier cages that can be used in the invention, have not been considered because they were not submitted in an Information Disclosure Statement (IDS) under 37 C.F.R. §§ 1.97 and 1.98.

Under 37 C.F.R. § 1.98(a)(3), information that is relevant to patentability is to be submitted in an IDS. 37 C.F.R. § 1.56(a) recites in part:

There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by Secs. 1.97(b)-(d) and 1.98.

The catalog pages were submitted with the Amendment dated January 9, 2004. As indicated in the Advisory Action dated February 20, 2004, the Amendment was entered. There was no indication that the Examiner objected to or did not consider the catalog pages.

The catalog pages were offered as evidence that the terms “guide rollers” and “carrier cages” were terms that were readily recognizable and understandable to those skilled in the art at the time the invention was made and are not, therefore, within 37 C.F.R. §§ 1.56, 1.97 and 1.98. This submission is no different than citing a dictionary definition of a term.

Appellants are prejudiced by the Examiner’s objecting to the manner in which the catalog pages have been entered at this point in time. Therefore, the catalog pages should be considered as evidence of what was known and understood in the

art and the requirement that they only be considered if submitted in an IDS should be withdrawn.

The Examiner also asserts for the first time, at Page 5, line 5, that “the name changes permitted by the examiner ‘first guide roller’ in place of ‘detachable connection element’ and second guide roller’ in place of ‘connecting element’ do not include permission to change the original disclosure.” This statement appears to infer a lack of support for the term used in the claims, which is not the case.

The guide rollers are supported at, for example page 3, lines 21-25, “The wagons have guide rollers running on laterally projecting mountings in the guide channel...the guide rollers may emerge laterally out of the guide channel” and at page 4, lines 1 to 4, “On the outside of the wagon, guide rollers are then also provided, which run in the guide channel of the removal guide track after transfer from the chain to the removal guide track.”

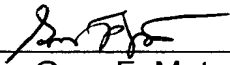
Thus, the first and second guide rollers are supported in the specification as embodiments of the invention and no special permission to use such terms, as alleged by the Examiner, is required.

As the claims now read, guide rollers are being claimed and not detachable connection elements as alleged by the Examiner.

It is submitted by Appellants that these statements by the Examiner do not accurately represent what one of ordinary skill in the art would understand the invention to be.

For these reasons and those discussed at length in their Appeal Brief, Appellants maintain their position that the Examiner's rejections are improper. Appellants respectfully request that these rejections be reversed and that Claims 7, 11 and 12 be allowed.

Respectfully submitted,

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